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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 AMELIA BUTLER,

10 Plaintiff,

11 v.

12 SI HO RAUGH,

13 Defendant.

CASE NO. C19-964 RSM

ORDER DISMISSING COMPLAINT AND
GRANTING LEAVE TO FILE AN
AMENDED COMPLAINT

14 Pro Se Plaintiff, Amelia Butler, was granted leave to proceed *in forma pauperis* (“IFP”)
15 in this matter. Dkt. #5. Plaintiff has filed both a Complaint (Dkt. #6) and an Amended Complaint
16 (Dkt. #7). While both appear deficient, the Court will focus its analysis on Plaintiff’s Amended
17 Complaint. Summonses have not yet been issued.

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19 Plaintiff is suing her hair stylist, Si ho Raugh. In her Amended Complaint, Plaintiff does
20 not detail the events leading to her claim or directly state the damage or harm that she suffered.
21 Rather, Plaintiff offers only conclusory statements that she was harmed and seeks damages of
22 three million dollars. From all the materials filed by Plaintiff, it appears that she got her hair
23 dyed and subsequently “developed a chemical burn.” Dkt. #6 at 10. Documents indicate that
24 Plaintiff informed employees that her scalp was burning but that the hair dye was left on her hair
25 for an additional fifteen minutes. Dkt. #4 at 3–5. Confusingly, Plaintiff also attaches a statement
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1 from Mi Na Kamg indicating that she colored and washed Plaintiff's hair and that Plaintiff
2 indicated that her hair "felt great," paid, and left. Dkt. #7 at 8.

3 Plaintiff seems to allege that the hair stylist was negligent in allowing her scalp to be
4 injured, violated Washington State sanitary standards for cosmetologists, violated state laws
5 related to professional conduct, and was general dishonesty. *Id.* at 2–5. Plaintiff further alleges
6 that after being injured, Defendant interfered with investigations into the matter and covered up
7 her actions by making false statements. *Id.* Under a heading entitled "Jurisdiction," Plaintiff
8 lists: "Libel, Slander, King County jurisdictions, Fraud, defamation of character, intentional
9 infliction of harm, emotional distress, and the Damages of \$3million." *Id.* at 1.

11 Where a plaintiff is granted IFP status, the court will dismiss the complaint at any time if
12 the action fails to state a claim, raises frivolous or malicious claims, or seeks monetary relief
13 from a defendant who is immune from such relief. *See* 28 U.S.C. § 1915(e)(2)(B). Further, as
14 federal courts are courts of limited jurisdiction, a plaintiff bears the burden of establishing that a
15 case is properly filed in federal court. *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377
16 (1994); *In re Ford Motor Co./Citibank (South Dakota), N.A.*, 264 F.3d 952, 957 (9th Cir. 2001).
17 This burden, at the pleading stage, must be met by pleading sufficient allegations to show a proper
18 basis for the federal court to assert subject matter jurisdiction over the action. *McNutt v. General*
19 *Motors Acceptance Corp.*, 298 U.S. 178, 189 (1936). A plaintiff may establish federal question
20 jurisdiction by pleading a "colorable claim 'arising under' the Constitution or laws of the United
21 States" or diversity jurisdiction by pleading "a claim between parties of diverse citizenship that
22 exceeds the required jurisdictional amount, currently set at \$75,000." *Arbaugh v. Y&H Corp.*,
23 546 U.S. 500, 513 (2006) (citations omitted).
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1 Plaintiff's Amended Complaint does not establish a basis for federal question jurisdiction.
2 Plaintiff does not identify any colorable claim under federal law or the Constitution. The closest
3 that Plaintiff comes are her conclusory pleadings that:

4 21. [Defendant] intentionally refusing immigration laws and rules by being
5 dishonest and harming a US citizen.

6 22. Refusing [Plaintiff] her constitutional rights.

7 23. [Defendant] is harming a US intentionally.

8 24. [Defendant] Scamming immigration by being dishonest and hurting a US
9 citizen intentionally.

10 25. [Defendant] intentionally set to harm US citizens by hiding information about
11 my injuries and refusing to tell the truth.

12 Dkt. #7 at 5. But these conclusory statements do not raise a colorable claim over which the Court
13 can exercise jurisdiction or upon which relief can be granted.

14 Plaintiff's Amended Complaint also does not establish a basis for diversity jurisdiction.
15 Plaintiff alleges that both she and Defendant are citizens of Washington. Dkt. #7 at 1. As plead,
16 there is not diversity between the parties. *See* 28 U.S.C. § 1332(a) (providing original jurisdiction
17 over civil matters where the controversy exceeds \$75,000 and is between "citizens of different
18 States"). Also, other than Plaintiff's unsupported allegation her damages are three million
19 dollars, there is no reasonable indication that the dispute exceeds the jurisdictional amount of
20 \$75,000.

21 Lastly, the Court notes that the Amended Complaint also appears deficient under the
22 applicable pleading rules. Fed. R. Civ. P. 8(a) (requiring "a short and plain statement of the
23 grounds for the court's jurisdiction" and "a short and plain statement of the claim showing that
24 the pleader is entitled to relief"). Plaintiff does not adequately allege facts supporting her claims.
25 *Twombly*, 550 U.S. at 555 (a complaint need not include detailed allegations, but must have
26 "more than labels and conclusions, and a formulaic recitation of the elements of a cause of action
will not do").

1 Due to these numerous deficiencies, the Court finds that Plaintiff's Amended Complaint
2 fails to state a claim upon which relief can be granted and accordingly dismisses Plaintiff's
3 Amended Complaint. However, a court dismissing a complaint should freely grant leave to
4 amend "unless it is absolutely clear that the deficiencies of the complaint could not be cured by
5 amendment." *Noll v. Carlson*, 809 F.2d 1446, 1448 (9th Cir. 1987); *see also DeSoto v. Yellow*
6 *Freight Sys., Inc.*, 957 F.2d 655, 658 (9th Cir. 1992) ("A district court does not err in denying
7 leave to amend where the amendment would be futile.") (citing *Reddy v. Litton Indus., Inc.*, 912
8 F.2d 291, 296 (9th Cir. 1990)). While the Court is skeptical that Plaintiff can cure these
9 deficiencies through amendment, the Court will grant Plaintiff leave to amend her complaint, as
10 indicated below.

12 Accordingly, having reviewed Plaintiff's filings and the remainder of the record, the
13 Court finds and ORDERS:

- 14 1. Plaintiff's Amended Complaint (Dkt. #7) is DISMISSED without prejudice.
- 15 2. Plaintiff is GRANTED leave to amend her Complaint. Within twenty-one (21) days
16 of this Order, Plaintiff shall file an amended complaint that satisfies the applicable
17 pleading standards and adequately demonstrates that this Court has jurisdiction to
18 hear the claims. Failure to file an amended complaint within twenty-one (21) days of
19 this Order will result in the matter being CLOSED.
- 20 3. The Clerk shall mail Plaintiff a copy of this Order at: P.O. Box 3388, Federal Way,
21 Washington 98063.

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2 Dated this 28th day of June 2019.

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5 RICARDO S. MARTINEZ
6 CHIEF UNITED STATES DISTRICT JUDGE
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